

Title 7: AGRICULTURE AND ANIMALS

Chapter 717: ANIMAL WELFARE ACT

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 717: ANIMAL WELFARE ACT

§3901. ANIMAL WELFARE ACT

This chapter is known and may be cited as the "Animal Welfare Act." [1995, c. 502, Pt. C, §5 (AMD).]

SECTION HISTORY

1987, c. 383, §3 (NEW). 1995, c. 502, §C5 (AMD).

§3902. PURPOSES; COMPREHENSIVE PROGRAM

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals. To ensure the humane and proper treatment of animals, the commissioner shall develop, implement and administer a comprehensive program that upholds the animal welfare laws of the State through communication, education and enforcement. [2001, c. 617, §4 (AMD).]

SECTION HISTORY

1987, c. 383, §3 (NEW). 2001, c. 617, §4 (AMD).

§3903. MEMBERSHIP

(REPEALED)

SECTION HISTORY

1987, c. 383, §3 (NEW). 1989, c. 701, §§2,6 (AMD). 1991, c. 267, §1 (AMD). 1991, c. 622, §FF2 (AMD). 1991, c. 779, §52 (AFF). 1991, c. 779, §3 (RP).

§3903-A. ANIMAL WELFARE BOARD; MEMBERSHIP

(REPEALED)

SECTION HISTORY

1991, c. 779, §4 (NEW). 1995, c. 502, §C6 (RP).

§3904. TERMS OF OFFICE

(REPEALED)

SECTION HISTORY

1987, c. 383, §3 (NEW). 1991, c. 779, §5 (AMD). 1995, c. 502, §C7 (RP).

§3905. ADMINISTRATION

(REPEALED)

SECTION HISTORY

1987, c. 383, §3 (NEW). 1991, c. 779, §6 (AMD). 1995, c. 502, §C8 (RP).

§3906. POWERS AND DUTIES OF THE BOARD**(REPEALED)**

SECTION HISTORY

1987, c. 383, §3 (NEW). 1989, c. 503, §B47 (AMD). 1989, c. 701, §§3,4,6 (AMD). 1991, c. 267, §§2,3 (AMD). 1991, c. 622, §§FF3-10 (AMD). 1991, c. 779, §52 (AFF). 1991, c. 779, §7 (RP).

§3906-A. POWERS AND DUTIES OF BOARD**(REPEALED)**

SECTION HISTORY

1991, c. 779, §8 (NEW). 1995, c. 502, §C9 (RP).

§3906-B. POWERS AND DUTIES OF COMMISSIONER

The commissioner has the powers and duties set forth in this section. [1991, c. 779, §9 (NEW) .]

1. Dog licensing laws. The commissioner shall carry out the dog licensing laws and furnish to municipalities all license blanks, stickers and tags.

[1997, c. 690, §1 (AMD) .]

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 1/2 of feed registration fees collected under section 714, subsection 1 and revenue in excess of \$100,000 from the surcharge collected under section 714, subsection 4 in the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing license blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.

[2009, c. 148, §2 (AMD) .]

3. Dog recorders. The commissioner shall appoint dog recorders in unorganized territories and establish fees for services rendered.

[1991, c. 779, §9 (NEW) .]

4. Training and certification of animal control officers. The commissioner shall develop both a basic and advanced program to train animal control officers. The basic program must include training in investigation of complaints of cruelty to animals, training in response to calls concerning animals suspected of having rabies and training in enforcement of dog licensing laws and rabies immunization laws.

The advanced training must include, but is not limited to, training in animal cruelty with respect to hoarders of animals, animal cruelty with respect to domestic violence, new laws, case reviews and report writing.

The commissioner shall certify all animal control officers who complete the training programs.

[2007, c. 439, §1 (AMD) .]

5. Cruelty to animals.

[1995, c. 502, Pt. C, §10 (RP) .]

6. Inspections. The commissioner shall inspect licensed facilities as provided in chapters 723 and 735.

[1997, c. 690, §3 (AMD) .]

7. Payment of fees. The commissioner may authorize payments to providers of special services to animals when the commissioner determines those services are in the public interest.

[1991, c. 779, §9 (NEW) .]

8. Copies of law. The commissioner shall seasonably forward to the clerks of municipalities copies of this Part.

[1991, c. 779, §9 (NEW) .]

9. Employees. The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, necessary employees to assist in enforcing this Part and in carrying out the commissioner's duties and responsibilities. The commissioner shall conduct a background check of a potential employee. The commissioner may not hire as a state humane agent a person who has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13, a violation of Title 19-A, section 4011 or a criminal violation under Title 17, chapter 42 or a person who has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this subsection.

[2007, c. 439, §2 (AMD) .]

9-A. Humane agents. The commissioner shall assign a humane agent to each of the following areas of specialization:

- A. Blood sports; [2003, c. 405, §2 (NEW) .]
- B. Exotic animals; [2003, c. 405, §2 (NEW) .]
- C. Large animals; [2003, c. 405, §2 (NEW) .]
- D. Mental health and domestic violence; [2003, c. 405, §2 (NEW) .]
- E. Small animals; and [2003, c. 405, §2 (NEW) .]
- F. Training. [2003, c. 536, §1 (AMD) .]

[2003, c. 536, §1 (AMD) .]

10. Rules. Pursuant to Title 5, chapter 375, the commissioner shall adopt, amend and repeal rules, including emergency rules, necessary for the proper administration, implementation, enforcement and interpretation of any provision of law that the commissioner is charged with administering.

[1991, c. 779, §9 (NEW) .]

11. Cruelty to animals. The commissioner, in cooperation with animal control officers, shall investigate complaints of cruelty to animals and enforce cruelty-to-animal laws in accordance with chapter 739 and Title 17, chapter 42. The Attorney General and the district attorneys shall assist the commissioner with the commissioner's enforcement responsibilities.

[1995, c. 502, Pt. C, §12 (NEW) .]

12. Intermittent agents. The commissioner shall appoint intermittent humane agents as necessary to assist the commissioner in carrying out the commissioner's duties and responsibilities. The commissioner shall train and coordinate efforts of intermittent agents. These intermittent agents are unclassified employees whose training, compensation and hours of employment are determined by the commissioner.

[1995, c. 502, Pt. C, §12 (NEW) .]

13. Spaying and neutering fund.

[2003, c. 682, §1 (RP) .]

14. Information. The commissioner may obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the commissioner.

[1995, c. 502, Pt. C, §12 (NEW) .]

15. Annual report. The commissioner shall report the activities of the commissioner annually by March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over taxation matters. This report must include a summary of cases of cruelty to animals investigated by the commissioner, a summary of final dispositions of those cases and, with respect to companion animals, a report of the number of animal shelter intakes, the number of sterilizations and the number of euthanizations and an account of deposits into and payments from the Companion Animal Sterilization Fund established in section 3910-B.

[2003, c. 682, §2 (AMD) .]

16. Animal welfare auxiliary fund. The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes and all proceeds from sales authorized under subsection 17 into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants, proceeds and matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

All money deposited in the animal welfare auxiliary fund in accordance with section 1820-A, subsection 4 must be used for investigating alleged cases of mistreatment or abuse of equines and enhancing enforcement of this Part and Title 17, chapter 42 as these laws pertain to equines.

[2009, c. 548, §1 (AMD) .]

17. Fund-raising. The commissioner may engage in the marketing and selling of general merchandise products to generate supplemental funds, which must be deposited in the animal welfare auxiliary fund established under subsection 16.

[2009, c. 548, §2 (NEW) .]

SECTION HISTORY

1991, c. 779, §9 (NEW). 1993, c. 468, §§2,3 (AMD). 1995, c. 502, §§C10-12 (AMD). 1997, c. 690, §§1-3 (AMD). 2001, c. 399, §2 (AMD). 2001, c. 422, §3 (AMD). 2003, c. 405, §§1-3 (AMD). 2003, c. 536, §1 (AMD). 2003, c. 682, §§1,2 (AMD). 2005, c. 281, §§3,4 (AMD). 2007, c. 439, §1 (AMD). 2007, c. 439, §2 (AMD). 2009, c. 148, §2 (AMD). 2009, c. 548, §§1, 2 (AMD).

§3906-C. ANIMAL WELFARE ADVISORY COUNCIL

The Animal Welfare Advisory Council, as established by Title 5, section 12004-I, subsection 2-C and referred to in this section as the "council," shall advise the commissioner on matters pertaining to animal welfare. [2001, c. 399, §3 (RPR).]

1. Membership. The council consists of 14 members appointed by the Governor as follows:

- A. One member representing municipal interests; [2001, c. 399, §3 (RPR).]
- B. One animal control officer; [1991, c. 779, §10 (NEW).]
- C. One member representing licensed animal shelters; [1991, c. 779, §10 (NEW).]
- D. One member representing licensed boarding kennels; [2009, c. 333, §1 (AMD).]
- E. One member representing licensed pet shops; [1995, c. 502, Pt. C, §13 (AMD).]
- F. [2001, c. 399, §3 (RP).]
- G. One member who is or has been a veterinarian licensed to practice in the State; [2001, c. 399, §3 (RPR).]
- H. One member who owns a pet and represents the interests of the public in animal welfare, generally; [2009, c. 333, §1 (AMD).]
- I. One attorney with experience in animal welfare law; [2001, c. 399, §3 (NEW).]
- J. One cooperative extension agent or specialist; [2001, c. 399, §3 (NEW).]
- K. One member with expertise in equine care; [2003, c. 405, §4 (AMD).]
- L. One member with expertise in livestock representing a statewide farming organization; [2009, c. 333, §1 (AMD).]
- M. One member representing a state-based animal advocacy group; [2009, c. 333, §1 (AMD).]
- N. One member who holds a kennel license issued under section 3923-C; and [2009, c. 333, §1 (NEW).]
- O. One member representing licensed breeding kennels. [2009, c. 333, §1 (NEW).]

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association. In making the appointment of the person holding a kennel license issued under section 3923-C, the Governor shall consider nominations made by state-based dog clubs.

[2009, c. 333, §1 (AMD) .]

2. Staff. The department shall provide necessary staffing services to the council.

[2009, c. 343, §1 (AMD) .]

3. Compensation. Members of the council are entitled to travel and meal expenses only.

[2001, c. 399, §3 (RPR) .]

4. Terms of office. Except for initial appointees, each member serves for a term of 3 years or until the member's successor has been appointed. A member may not serve more than 2 consecutive terms. In the case of a vacancy for any reason, the Governor shall appoint a member representing the same interest to fill the unexpired term.

[2009, c. 343, §2 (AMD) .]

5. Initial terms of office. Initially, 4 appointed members serve for one year, 4 members serve for 2 years and 3 members serve for 3 years.

[2001, c. 399, §3 (RPR) .]

6. Administration; meetings. The council shall elect one of its members as chair. The chair serves for a 2-year period and may not serve as chair for consecutive 2-year periods.

The council shall hold regular public meetings every other month but may waive by majority vote a succeeding meeting. The chair shall call special meetings of the council whenever requested in writing by 2 or more members. The council shall send notice and minutes of the meetings to the joint standing committee of the Legislature having jurisdiction over animal welfare matters.

[2001, c. 399, §3 (RPR) .]

7. Duties. The council shall perform the following duties:

A. Review and advise the commissioner on proposed revisions to the animal welfare laws and rules; [2001, c. 399, §3 (NEW).]

B. Assist the commissioner in the continuing implementation and evaluation of the animal welfare laws and rules; [2001, c. 399, §3 (NEW).]

C. Review training programs for humane agents and animal control officers and make recommendations for training appropriate to the duties of the humane agents and animal control officers; [2001, c. 399, §3 (NEW).]

D. Research options for increasing revenue to the Animal Welfare Fund to ensure funding for the implementation and enforcement of the animal welfare laws and rules, periodically evaluate the adequacy of funding for those laws and rules and make recommendations to the commissioner; and [2001, c. 399, §3 (NEW).]

E. Advise the commissioner on other matters related to the animal welfare laws and rules. [2001, c. 399, §3 (NEW).]

[2001, c. 399, §3 (NEW) .]

SECTION HISTORY

1991, c. 779, §10 (NEW). 1995, c. 502, §C13 (AMD). 2001, c. 399, §3 (RPR). 2003, c. 405, §4 (AMD). 2009, c. 333, §1 (AMD). 2009, c. 343, §§1, 2 (AMD).

§3907. DEFINITIONS

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 383, §3 (NEW).]

1. Act. "Act" means the Animal Welfare Act.

[2005, c. 2, §10 (COR) .]

1-A. Abandoned dog.

[2013, c. 115, §1 (RP) .]

1-B. Abandoned animal. "Abandoned animal" means an animal that has been deserted by its owner or keeper, excluding animals that are part of a population control effort.

[2013, c. 115, §2 (NEW) .]

2. Animal. "Animal" means every living, sentient creature not a human being.

[1987, c. 383, §3 (NEW) .]

3. Animal control. "Animal control" means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.

[1993, c. 468, §4 (AMD) .]

4. Animal control officer. "Animal control officer" means the person appointed periodically by a municipality pursuant to chapter 725.

[1995, c. 490, §1 (AMD) .]

5. Animal control shelter.

[1993, c. 657, §2 (RP) .]

5-A. Animal shelter. "Animal shelter" means a:

A. Facility that houses domesticated animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes; or [2015, c. 223, §1 (NEW) .]

B. Rescue group. [2015, c. 223, §1 (NEW) .]

[2015, c. 223, §1 (RPR) .]

6. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

[1987, c. 383, §3 (NEW) .]

7. Board.

[2005, c. 510, §2 (RP) .]

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

[2009, c. 343, §3 (AMD) .]

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C

when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

[2011, c. 100, §1 (AMD) .]

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

[1987, c. 383, §3 (NEW) .]

9-A. Cat identification. "Cat identification" means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear; [2001, c. 363, §1 (NEW) .]

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or [2001, c. 363, §1 (NEW) .]

C. A collar and tag providing the name and address of the animal shelter that issued the tag. [2001, c. 363, §1 (NEW) .]

[2001, c. 363, §1 (NEW) .]

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

[1987, c. 383, §3 (NEW) .]

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or his duly authorized agent.

[1987, c. 383, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV) .]

11-A. Companion animal. "Companion animal" means a cat or dog.

[2003, c. 682, §3 (NEW) .]

11-B. Council. "Council" means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.

[2005, c. 510, §4 (NEW) .]

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

[1987, c. 383, §3 (NEW) .]

12-A. Equine facility.

[1999, c. 498, §1 (RP) .]

12-B. Foster home.

[2005, c. 510, §5 (RP) .]

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris*, except that in chapters 720, 721, 725, 727, 729 and 739 "dog" means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid.

[2011, c. 100, §2 (AMD) .]

12-D. Dangerous dog. "Dangerous dog" means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use. "Dangerous dog" does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

[2011, c. 100, §3 (AMD) .]

12-E. Feral cat. "Feral cat" means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.

[2007, c. 439, §3 (NEW) .]

12-F. Dog licensing agent. "Dog licensing agent" means a veterinarian office or animal shelter that licenses dogs for a municipality.

[2013, c. 115, §3 (NEW) .]

13. Service dog kept for breeding purposes. "Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

[2007, c. 664, §8 (AMD) .]

14. Service dog kept prior to training. "Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

[2007, c. 664, §9 (AMD) .]

15. Humane agent. "Humane agent" means an employee of the department who assists in enforcing this Part.

[2001, c. 422, §4 (AMD) .]

15-A. Humane society.

[1993, c. 657, §4 (RP) .]

15-B. Humanely clean conditions. "Humanely clean conditions" means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

[2007, c. 702, §5 (NEW) .]

15-C. Humanely trap. "Humanely trap" means to trap an animal using traps and trapping methods that are designed to avoid injury to animals to the greatest extent practicable for animal control or animal rescue purposes.

[2013, c. 115, §4 (NEW) .]

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

[1995, c. 490, §4 (AMD) .]

17. Kennel. "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

[2011, c. 100, §4 (AMD) .]

18. Law enforcement officer. "Law enforcement officer" means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

[1987, c. 383, §3 (NEW) .]

18-A. Livestock. "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

[2007, c. 439, §4 (AMD) .]

19. Municipality. "Municipality" means an organized city, town or plantation.

[1993, c. 657, §5 (AMD) .]

20. Mutilate. "Mutilate" means to injure or disfigure by irreparably damaging body parts. "Mutilate" does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

[1997, c. 456, §2 (AMD) .]

21. Owner. "Owner" means a person owning, keeping or harboring a dog or other animal.

[1993, c. 657, §6 (AMD) .]

22. Person. "Person" means an individual, corporation, partnership, association or any other legal entity.

[1987, c. 383, §3 (NEW) .]

22-A. Pet animal.

[1997, c. 690, §6 (RP) .]

22-B. Pet. "Pet" means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

[1997, c. 690, §7 (AMD) .]

23. Pet shop. "Pet shop" means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

[1993, c. 657, §8 (AMD) .]

23-A. Rescue group. "Rescue group" means an organization or individual that receives domesticated animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes.

[2015, c. 223, §2 (AMD) .]

23-B. Population control effort. "Population control effort" means the activities, programs and projects aimed at reducing the number of cats and dogs without homes, including, but not limited to, the trapping, neutering and vaccinating of feral cats, the trapping of cats for impoundment at an animal shelter and spaying or neutering services for abandoned animals and stray dogs and cats.

[2013, c. 115, §5 (NEW) .]

24. Respective municipality. "Respective municipality" means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.

[1993, c. 657, §9 (AMD) .]

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E or "assistance animal" set forth in Title 5, section 4553, subsection 1-H.

[2015, c. 457, §5 (AMD) .]

25. Shelter.

[1993, c. 657, §10 (RP) .]

25-A. Stray. "Stray" means off the owner's premises and not under the control of a person.

[1993, c. 657, §11 (NEW) .]

25-B. Small animal. "Small animal" means a bird, reptile or amphibian or a small mammal, other than a cat or dog, commonly kept as a household pet and that is an unrestricted species designated by the Commissioner of Inland Fisheries and Wildlife in rules adopted pursuant to Title 12, chapter 915.

[2013, c. 115, §6 (NEW) .]

26. Torment, torture and cruelty. "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

[1987, c. 383, §3 (NEW) .]

26-A. Unorganized territory. "Unorganized territory" means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. "Unorganized territory" does not include plantations.

[1995, c. 490, §5 (NEW) .]

27. Vertebrate. "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

[1987, c. 383, §3 (NEW) .]

28. Warrant.

[2015, c. 223, §3 (RP) .]

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

[1987, c. 383, §3 (NEW) .]

30. Wolf hybrid. "Wolf hybrid" means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

[1999, c. 127, Pt. A, §16 (RPR) .]

SECTION HISTORY

1987, c. 383, §3 (NEW). 1991, c. 622, §FF11 (AMD). 1991, c. 779, §§11-15 (AMD). 1991, c. 779, §52 (AFF). 1993, c. 468, §§4,5 (AMD). 1993, c. 657, §§1-11 (AMD). 1995, c. 351, §1 (AMD). 1995, c. 409, §§1,2 (AMD). 1995, c. 490, §§1-5 (AMD). 1997, c. 33, §1 (AMD). 1997, c. 456, §§1,2 (AMD). 1997, c. 690, §§4-8 (AMD). 1997, c. 704, §1 (AMD). 1999, c. 127, §A16 (AMD). 1999, c. 350, §1 (AMD). 1999, c. 498, §1 (AMD). 2001, c. 363, §1 (AMD). 2001, c. 399, §4 (AMD). 2001, c. 422, §4 (AMD). 2003, c. 334, §2 (AMD). 2003, c. 536, §2 (AMD). 2003, c. 682, §3 (AMD). RR 2005, c. 2, §10 (COR). 2005, c. 510, §§1-5 (AMD). 2007, c. 439, §§3-5 (AMD). 2007, c. 664, §§8-10 (AMD). 2007, c. 702, §§3-6 (AMD). 2009, c. 343, §§3, 4 (AMD). 2009, c. 403, §1 (AMD). 2011, c. 100, §§1-4 (AMD). 2011, c. 369, §3 (AMD). 2011, c. 657, Pt. W, §6 (REV). 2013, c. 115, §§1-6 (AMD). 2015, c. 223, §§1-3 (AMD). 2015, c. 457, §5 (AMD).

§3908. GOVERNMENTAL FUNCTION **(REPEALED)**

SECTION HISTORY

1987, c. 383, §3 (NEW). 1997, c. 690, §9 (RP).

§3909. ENFORCEMENT

1. Attorney General and District Attorneys. Whenever a person has engaged in or is about to engage in an act or practice that constitutes a violation of this Part, a rule adopted pursuant to this Part or a condition of an order, license or permit approved or decision issued by the commissioner pursuant to this Part, or that constitutes a violation of Title 17, chapter 42, the Attorney General or a District Attorney, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, an order directing compliance or imposing a civil or criminal penalty, or any combination of these actions, as provided by law. Upon a showing by the commissioner that the person has engaged or is about to engage in such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

[2005, c. 422, §1 (AMD) .]

2. Designated employees of the department. For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian who have been certified in accordance with subsection 3-A to issue and serve civil violation processes against offenders pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court for violations of this Part. The commissioner may authorize certified humane agents or a certified state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. A certified humane agent or a certified state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

[2009, c. 652, Pt. A, §6 (RPR) .]

2-A. Animal welfare citation form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the department.

A. The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued to the department. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to humane agents and a state veterinarian certified under subsection 3-A and for the proper disposition of those books. [2009, c. 343, §6 (NEW) .]

B. It is unlawful and official misconduct for any humane agent or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in an applicable official policy or procedure of the department. [2009, c. 343, §6 (NEW) .]

C. A Uniform Summons and Complaint may be filed in a court having jurisdiction and constitutes a lawful complaint to commence any criminal prosecution or civil violation proceeding if the Uniform Summons and Complaint is duly sworn to as required by law and is otherwise legally sufficient. [2009, c. 343, §6 (NEW) .]

D. A Uniform Summons and Complaint, when served upon a person by a humane agent, functions as a summons to appear in court. A person who fails to appear in court after having been served with a summons commits a Class E crime. Upon that person's failure to appear, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this paragraph that the failure to appear resulted from just cause. [2009, c. 343, §6 (NEW) .]

[2009, c. 343, §6 (NEW) .]

3. Education requirement; management.

[2003, c. 405, §5 (RP) .]

3-A. Humane agents; training requirements. Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part. To issue and serve civil violation processes or represent the department in District Court under subsection 2, a humane agent or a state veterinarian must have completed a program at the Maine Criminal Justice Academy that certifies familiarity with court procedures.

A humane agent, regardless of appointment date, shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

[2009, c. 343, §7 (AMD) .]

4. Subpoenas. The commissioner or the commissioner's designee after consultation with the appropriate attorney for the State or the legal counsel for the department may:

A. Serve subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation under the animal welfare laws.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department.

[2001, c. 422, §5 (NEW) .]

[2001, c. 422, §5 (NEW) .]

5. Enforcement provision; animal control officers. The certification of an animal control officer under section 3906-B may be suspended or revoked by the commissioner in accordance with Title 5, chapter 375.

[2009, c. 343, §8 (NEW) .]

6. Confidential information. The names of and other identifying information about persons providing information pertaining to criminal or civil cruelty to animals to the department are confidential information and may not be released.

[2013, c. 267, Pt. C, §1 (NEW) .]

SECTION HISTORY

1987, c. 383, §3 (NEW). 1991, c. 779, §16 (AMD). 1995, c. 490, §6 (AMD). 1997, c. 456, §3 (RPR). 1997, c. 683, §B1 (AMD). 1999, c. 254, §2 (AMD). 2001, c. 422, §5 (AMD). 2003, c. 405, §§5,6 (AMD). 2003, c. 536, §3 (AMD). 2005, c. 422, §1 (AMD). 2009, c. 213, Pt. M, §2 (AMD). 2009, c. 343, §§5-8 (AMD). 2009, c. 652, Pt. A, §6 (AMD). 2013, c. 267, Pt. C, §1 (AMD).

§3910. JURISDICTION

(REPEALED)

SECTION HISTORY

1987, c. 383, §3 (NEW). 2001, c. 617, §5 (RP).

§3910-A. FORFEITURES AND SURCHARGE

1. Forfeitures. Unless otherwise provided, any court in this State shall collect fines or forfeitures imposed for violations of this Part and pay the fine or forfeiture into the treasury of the municipality where the offense or violation was committed. The municipal clerk shall deposit and expend fines and forfeitures received in accordance with section 3945.

[2001, c. 617, §6 (NEW) .]

2. Surcharge imposed. A surcharge of \$10 must be added to every fine, forfeiture or penalty imposed by any court in this State for a violation of this Part. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under section 3906-B, subsection 2.

[2001, c. 710, §5 (AMD); 2001, c. 710, §6 (AFF) .]

SECTION HISTORY

2001, c. 617, §6 (NEW). 2001, c. 710, §5 (AMD). 2001, c. 710, §6 (AFF).

§3910-B. COMPANION ANIMAL STERILIZATION FUND

1. Establishment. There is established the Companion Animal Sterilization Fund, an interest-bearing account, referred to in this section as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5284-A, revenues generated in accordance with this section, all revenue from the surcharges collected under section 3933, subsection 4, revenue received from surcharges in accordance with section 714, subsection 4 and any money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used for the spaying or neutering of companion animals owned by persons meeting income limit standards and for the necessary direct administrative and personnel costs associated with the management of the fund and may not be deposited in the General Fund or any other fund except as specifically provided by law. The fund may not be charged for indirect costs under a departmental indirect cost allocation plan.

[2009, c. 148, §3 (AMD) .]

1-A. Option to contract for administration of the fund. The commissioner may contract the administration of the fund to a suitable organization or individual selected through a competitive process. The contracting organization or individual shall administer the fund in accordance with procedures and eligibility standards established under subsection 2. The contracting organization or individual may not expend more than 15% of the fund annually for administrative costs.

[2007, c. 539, Pt. CCCC, §2 (NEW) .]

2. Subsidies; development of standards. The commissioner shall develop procedures and eligibility standards for the awarding of subsidies to low-income persons for the spaying or neutering of those persons' companion animals. Procedures and eligibility standards must be developed in consultation with veterinarians and representatives of humane societies and animal shelters.

[2003, c. 682, §4 (NEW) .]

3. Fund-raising. The commissioner or the commissioner's authorized agent may provide for the creation, reproduction, sale, licensing and distribution and other disposal of any art or other products for the purpose of generating revenues for the fund. All money generated from the sale of these items must be deposited into the fund.

[2003, c. 682, §4 (NEW) .]

4. Oversight. The Animal Welfare Advisory Council established in section 3906-C or a subcommittee of the council shall review the objectives of the fund and make recommendations for maximizing use of available resources to meet the objectives of the fund. The council or subcommittee shall review the administration of the fund and make recommendations, which may include the development of a competitive process to contract for the administration of the fund.

[2007, c. 539, Pt. CCCC, §3 (NEW) .]

SECTION HISTORY

2003, c. 682, §4 (NEW). 2005, c. 281, §5 (AMD). 2005, c. 510, §6 (AMD). 2007, c. 539, Pt. CCCC, §§1-3 (AMD). 2009, c. 148, §3 (AMD).

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